

PARK LAND DEDICATION, IN-LIEU FEES AND THE QUIMBY ACT



11.15.661 Parkland Dedications

(a) Authority; Definitions; Findings.

(1) Authority. This section is adopted under the provisions of Government Code section 66477 and the power of the County of Yuba to protect the public health, safety and welfare of its residents.

(2) Definitions. As used in this section, the following terms have the following meanings:

(A) Fees mean fees that must be paid in lieu of land dedicated for park or recreational purposes as a condition of the approval of a tentative map or parcel map as provided by this section.

(B) Unless the context requires otherwise, dedicated land, and land, mean land that must be dedicated for park or recreational purposes as a condition of the approval of a tentative map or parcel map as provided by this section.

(C) Local public agency means a public agency, which provides park and recreational services on a community wide level and to the area within which a proposed development described in this section will be located, designated by a resolution of the Board of Supervisors to act on behalf of the County under this section. Except as otherwise provided by this section, a local public agency that is not a department or office of the County shall have exclusive authority and control over land conveyed and fees paid directly to the local public agency under this section. If an applicable local public agency does not exist at the time land is conveyed or fees are paid, or a combination of both, then the County shall be the local public agency for the purposes of this section.

(D) Park or recreational purposes include land and facilities for the activity of "recreational community gardening," which activity consists of cultivation by persons other than, or in addition to, the owner of such land, of plant material not for sale.

(E) Plan means the Yuba County General Plan, any specific plan adopted by the County and any other countywide plan or community plan providing policy, standards or plans for parks and recreational facilities in the County of Yuba.

(3) Findings. The Board of Supervisors finds:

(A) The Board of Supervisors has adopted the Yuba County General Plan and one or more specific plans containing policies and standards for parks and recreational facilities, and the park and recreational facilities are in accordance with definite principles and standards.

(B) The implementation of this section results in the amount and location of land to be dedicated or the fees to be paid, or a combination of both, bearing a reasonable relationship to the use of park and recreational facilities by the future inhabitants of a subdivision.

(b) Parkland Dedications and Fees. As provided by this section, land must be dedicated or fees must be paid in lieu of such dedication of land, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative map or parcel map.

(1) Use of Land and Fees. The land, fees, or combination thereof are to be used only for the purpose of developing (including acquiring the necessary land) new, or rehabilitating existing, neighborhood or community park or recreational facilities to serve the subdivision.

(c) Standards.

(1) Amount of Neighborhood and Community Park Acreage. As of the 1990 federal census, the most recent available federal census as of the date of adoption of this section, the amount of actual acreage of existing neighborhood and community parks of the County as shown on the County's records, plans, recreational element, maps or reports was 558 acres.

(2) Total Population of County. As of the 1990 federal census the total population of the County was 58,228.

(3) General Ratio. As provided by Government Code section 66477(b), the ratio of the amount of neighborhood and community park acreage bears to the total population of the County is .0096 acres/person.

(4) General Standard. The amount of land or fees, or both, shall be the amount necessary to provide five (5) acres of park area per one thousand (1000) persons residing within a subdivision subject to this section. The general standard is .005 acres/person.

(5) Standard for Determining Proportion of Subdivision to Be Dedicated. If a park or recreational facility has been designated in the plans and is to be located within a proposed subdivision, then subdivider shall dedicate land for a park or recreational purposes sufficient in size and topography that bears a reasonable relationship to serve the present and future needs of the future residents of the subdivision. The formula for determining the amount of dedicated land shall be as follows:

| STANDARD FOR DETERMINING IN-LIEU FEES | |
|---------------------------------------|----------------------------------|
| | .005 ACRES |
| X | AVERAGE NUMBER OF PERSONS / UNIT |
| X | DWELLING UNITS |
| = | DEDICATED LAND |

Average No. Persons/Dwelling Unit means the average number of persons per dwelling unit as provided by the table below generated under Government Code section 66477(b):

Dwelling Units means the total number of dwelling units of the same type in a subdivision. If a mixture of dwelling unit types exist in a subdivision, the land to be dedicated for each type shall be separately calculated and then added together to obtain the land to be dedicated for a subdivision.

(6) Standard for Determining Amount of Fees. If a park or recreational facility has not been designated in the plans in whole or part within a subdivision, the subdivider shall pay fees based on the following formula:

| STANDARD FOR DETERMINING IN-LIEU FEES | |
|---------------------------------------|----------------------------------|
| | .005 ACRES |
| X | AVERAGE NUMBER OF PERSONS / UNIT |
| X | FAIR MARKET VALUE |
| X | 1.20 |
| = | FEES |

| AVERAGE NUMBER OF PERSONS PER DWELLING UNIT TYPE | |
|--|-----|
| SINGLE FAMILY | 2.9 |
| DUPLEXES & LOW DENSITY MULTIFAMILY | 2.3 |
| MEDIUM & HIGH DENSITY MULTIFAMILY | 1.9 |

FMV/DU means fair market value per dwelling unit in the subdivision. The fair market value shall be determined by a written appraisal report prepared by an appraiser acceptable to the County and paid by the developer. The appraisal shall be made within 30 days prior to the date the subdivider files a final map under this chapter (filing date). The subdivider shall notify the County of the expected filing date at least six weeks prior to filing date of a final map. If the final map to which the appraisal report relates is not filed within one (1) year after the date of the appraisal report, a new appraisal report shall be prepared as provided by this section.

In appraising the fair market value per dwelling unit, the appraiser shall consider, but is not limited to, the following:

- (A) Approval of and conditions of the tentative subdivision map;
- (B) The countywide plan, or community plan;
- (C) Zoning;
- (D) Property location;
- (E) Off-site improvements facilitating use of the property; and
- (F) Site characteristics of the property.

Dwelling Units mean the total number of dwelling units of the same type in a subdivision. If a mixture of dwelling unit types exist in a subdivision, the fee for each type shall be separately calculated and then added together to obtain the fee for a subdivision.

The fees equal the amount obtained by multiplying the general standard times the value of land that would have been dedicated if such dedication were required under this section plus another twenty (20) percent of this amount towards off-site improvements.

(7) Standard for Determining Combination Dedication and Fees. If the amount of land required for dedication under this section exceeds the portion (portion) of land within a subdivision necessary to complete the site (site) within the subdivision for a park or recreational facility proposed in the

plans, the subdivider shall dedicate land for park or recreational purposes necessary to complete the site. In addition, the subdivider shall pay the remaining fee calculated as follows:

Remaining = Dedicated Land - Portion x Fees
Fees Dedicated Land

(d) Schedules; Trust Fund and Report; Commitment.

(1) Schedule. The local public agency to which the land or fees are conveyed under this section shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve the residents of the subdivision.

(A) Sale, Lease, Encumbering of Dedicated Land. As may be allowed by law the local public agency may sell, lease or encumber dedicated land conveyed to the local public agency. The proceeds from such transactions shall be used for park or recreational facilities as provided by this section.

(2) Trust Fund and Annual Report. Fees paid under this section shall be deposited into a subdivision park trust account, or other similar fund. Monies in such trust account or fund, including accrued interest, shall be used solely for the acquisition or development of land for park or recreational purposes or improvements related thereto. The local public agency treasurer shall report to the Board of Supervisors and local public agency annually as to the income, expenditures and status of such subdivision park trust fund.

(3) Commitment of Fees. Any fees collected under this section shall be committed within five (5) years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the fees are not committed, they, without any deductions, shall be distributed and paid to then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(e) Fees Only Subdivisions; Exceptions. Only the payment of fees may be required in subdivisions containing fifty (50) parcels or less, except that when a condominium project, store cooperative, or community apartment project exceeds fifty (50) dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than fifty (50).

(1) This section does not prohibit the voluntary dedication by a subdivider and acceptance by County of land for park or recreational purposes in subdivisions of fifty (50) parcels or less. The credit provisions of this section shall not apply to such a voluntary dedication of land.

(f) Exemptions. This section does not apply to:

(1) Subdivisions containing less than five (5) parcels and not used for residential purposes provided a condition is placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four (4) years of filing the parcel map with the County Recorder the fee shall be paid by the owner of each such parcel as a condition to issuance of such permit.

(2) Commercial or industrial subdivisions.

(3) Condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five (5) years old when no new dwelling units are added.

(g) Credits.

(1) Generally. If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by this section subject to the subdivider not receiving a credit for any of the following:

(A) Any street improvement and utility connection including, but not limited to, curbs, gutters, street paving, traffic control devices, street trees and sidewalks within the boundaries of the land which would have been constructed or installed regardless of the land being dedicated for park or recreational purposes.

(B) Fencing along the property line of that portion of the subdivision contiguous to the land.

(C) Improved drainage through the land.

(D) Other minimal improvements which the County determines are essential for the County's acceptance of the land.

(2) Credit for Private Common Open Space. In addition to any other credit provided by this section, planned unit developments, real estate developments, stock cooperatives, and community apartment projects, as defined by sections 11003, 11003.1, 11003.2, 11003.4, and 11004, respectively, of the Business and Professions Code, and condominiums, as defined by section 783 of the Civil Code, shall be eligible to receive a credit against the payment of fees or dedication of land required by this section for fifty (50) percent of the value of private common open space within the development which is usable for active recreational uses and where all of the following conditions are satisfied:

(A) Yards, setbacks, and other open areas required by the zoning and building ordinances, including areas credited against minimum lot sizes, shall not be included in computing the amount of such private common open space;

(B) Private ownership and maintenance of the open space shall be adequately provided for by deeds and recorded covenants;

(C) Use of the private common open space shall be restricted for park and recreational purposes by recorded covenants which run with the land in favor of the exiting and future owners of the property within the development and which cannot be eliminated without the consent of County;

(D) The proposed private common open space is reasonably adaptable for use for park and recreational purposes as determined by the County; and

(E) The private common open space for which credit is given shall meet the needs of the future residents of the development, or, alternatively, that the land or facilities offered, or both, provide a special recreational benefit to the development not otherwise provided in available park and recreational facilities.

(h) Procedures: Determinations, Conveyance, Payments, Appeals.

(1) Intent of Section. The intent of this section is to provide land for parks and recreational facilities, including but not limited to: tot lots, play lots, playgrounds, neighborhood parks, playfields, community or district parks, and other specialized recreational facilities.

(2) Joint Determination and Factors. The amount and location of land to be dedicated or the fees to be paid, or a combination of both, shall be jointly determined by the Planning Commission and the local public agency, or solely by the Planning Commission if no local public agency has been designated under this section, after consulting with the Director of Planning and the director of the local public agency, if one exists, considering the intent of this section, the principal considerations hereafter described, and the following factors:

- (A) The natural features, access, and location of land in the subdivision available for dedication;
- (B) Size and shape of the subdivision and land available for dedication;
- (C) Feasibility of dedication;
- (D) Compatibility of dedication with the plans;
- (E) The location of existing and proposed park sites and railways; and
- (F) The design and location of proposed park and recreational facility improvements.

(3) Principal Consideration. Principal consideration shall be given to land which offers one or more of the following:

- (A) A variety of recreational potential for all age groups.
- (B) Recreational opportunities within walking distance from residential areas or homes.
- (C) Possibility for expansion or connection with school grounds.
- (D) Integration with hiking, riding and bicycle trails, natural stream reserves and other open space.
- (E) Coordination with all other park systems.
- (F) Access to at least one existing or proposed public street.

(3) Time of Land Determination, Fee Percentage and Conveyance.

(A) The amount and location of the land to be dedicated and the percentage of the fees to be paid shall be determined at the time of the approval under this chapter of a tentative map or parcel map.

(B) At the time of filing of the final map or parcel map, fee simple absolute title to the dedicated land shall be conveyed in compliance with this section and Government Code section 27281.

(4) Time of Fee Amount Determination and Payment. The Director of Planning shall determine the amount of fees or remaining fees to be paid after receiving the written appraisal report provided by this section. The Director of Planning shall notify the director of the local public agency and the subdivider in writing of the amount of the fees to be paid. The fees shall be paid and received at or prior to the time of filing of the final map or parcel map.

(5) Acceptance of Land or Fees. The land or fees, or the combination of both, shall be conveyed or paid directly to the local public agency if the local public agency elects to accept the land or fee, or a combination of both. The local public agency shall develop the land or use the funds in a manner provided in this section.

(6) Appeals. Any determination made under this section may be appealed under the provisions of section 11.15.720. Appeals shall be jointly determined by the Board of Supervisors and the local public agency.

(i) Conflicts. The provisions of the Yuba County General Plan or any County specific plan shall prevail in any conflict between the provisions of such plans and this section. (#1045 as amended by #1092)